

# **EXHIBIT G**

McCauley, Eileen

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**From:** Robert D. Fine <RFine@crflp.com>  
**Sent:** Monday, March 30, 2015 1:34 PM  
**To:** Levinstein, Mark  
**Cc:** Robert C. Corrente (rcorrente@burnslev.com); Bell, Daniel; Hillson, Greg; Douglas J. Emanuel  
**Subject:** RE: Thundermist production

Mark -

I would like to thank you again for advising us of the personal health information issue. As for the larger issues, although we believe all responsive documents have been produced, save for the two documents previously identified in response to Request No.1, and out of a desire to be as thorough as is needed, we have asked Chuck Jones to re-review all locales to make certain the task is complete, particularly in response to your apparent awareness of documents between Steward and Thundermist that have not been produced.

Mr. Jones knows his predecessor, Maria Montanaro, scrubbed her computer when she left and that may explain that situation. Without knowing what documents you have and we don't, I admit that I am only guessing as to the cause. But as I mentioned, we have asked Mr. Jones to re-evaluate his prior searches.

You recently requested that Thundermist produce Outlook invitations. Although Outlook invitations (even involving BCBSRI) are not responsive to any of the categories of documents requested by the subpoena, I am sending you a cd of Outlook invitations, which can be mailed out today, in hopes that at least one issue of contention can be eliminated.

You have also frequently asked us about Thundermist's "custodians." That term simply does not translate to Thundermist's organizational structure. Mr. Jones's search of electronic documents extends to the entire Thundermist network. We will be happy to explain this to you - and address any other concerns you have raised in your emails - in a conference, over the telephone or in person if you wish.

Mr. Jones' target date to complete this last review - to satisfy the questions you raised in your email this past weekend - is the end of this week. If more documents are found, we will get them to you as quickly as possible. Please let me know when you want to meet and confer and how you wish to do so once that task is complete.

Bob

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-----Original Message-----

From: Levinstein, Mark [<mailto:MLevinstein@wc.com>]

Sent: Monday, March 30, 2015 7:39 AM

To: Robert D. Fine

Cc: Robert C. Corrente (rcorrente@burnslev.com); Bell, Daniel; Hillson, Greg

Subject: RE: Thundermist production

Bob -

I hope you had a good weekend. As the email below explained, we have concerns about Thundermist's production. We identified specific issues and asked ". . . if, as a first step, you would go back to your client and try to figure out what happened to the documents in question. In addition, we are still waiting to receive a list of the custodians whose files Thundermist searched." We also explained that ". . . beyond emails, we believe there may be other categories of documents (for example powerpoint documents, excel spreadsheets, outlook calendars) that are responsive and have information about meetings and discussions between Thundermist and BCBSRI and Lifespan concerning Landmark and Steward, but have not been produced. We also know that Thundermist had a substantial volume of responsive documents related to communications between Steward and Thundermist before Chuck Jones was hired that have not been produced."

We asked to schedule a meet and confer call to discuss these issues and how they are going to be addressed.

A week ago, you responded that you would confer with your client and then would be back with us "shortly" to schedule a meet and confer call.

Have you made any progress? Can we schedule a call?

Mark S. Levinstein  
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725 Twelfth Street, N.W.  
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202-434-5029 (fax)  
mlevinstein@wc.com

-----Original Message-----

From: Robert D. Fine [mailto:RFine@crflp.com]  
Sent: Monday, March 23, 2015 10:56 AM  
To: Levinstein, Mark  
Cc: Robert C. Corrente (rcorrente@burnslev.com)  
Subject: RE: Thundermist production

Mark:

Thank you for your email. We will again confer with our client regarding the search process questions you've raised, which we need to do (obviously) before you and I meet and confer. We will be back to you shortly.

We appreciate your raising the three issues you numbered below. We can response to those right now:

1. We are taking steps to correct the inadvertent release of PHI, specifically the names of the 5 individuals on pages 34-35 of the Emails.pdf file. Attached please find redacted copies of those pages. If you can substitute those pages into your existing .pdf (and any other place you may have put the .pdf), we would appreciate it. If the .pdf is not editable, let us know, and we will replace the entire Emails.pdf file. Pursuant to HIPAA, we need you to please confirm to us that the pages in their initial form have not only been deleted, but destroyed, so please confirm that to us as soon as you can.

2. Page 804 of the Emails.pdf file was, as you correctly deduced, inadvertently produced. As such, please destroy it and delete it (and any copies made of it), but there is no need to return it to us. Certainly, as you kindly indicated, its production should not be considered as a waiver of the attorney-client privilege as to any other communication between our firm and our client. We thank you for your approach to this document.

3. As to the two files that cannot be opened, if you identify which files they are and what the error message said, we will do what we can to send you accessible versions.

Thanks,

Bob

-----Original Message-----

From: Levinstein, Mark [mailto:MLevinstein@wc.com]

Sent: Saturday, March 21, 2015 7:38 PM

To: Robert D. Fine

Cc: Robert C. Corrente (rcorrente@burnslev.com); Bell, Daniel; Hillson, Greg

Subject: RE: Thundermist production

Dear Bob,

It was nice to meet you and your daughter at the recent hearing.

We are writing because of concerns about Thundermist's production. It has come to our attention that, contrary to what we had initially been told, during the relevant time period, Thundermist in fact had a number of communications with Blue Cross and Lifespan about Steward and Landmark that are highly relevant to this case and are responsive to the subpoena. Some of those communications and related documents that were in Thundermist's possession at one point in time were not included in your production. There are at least three possible explanations for this: (1) the documents were not preserved, (2) Thundermist's search was inadequate, or (3) the documents were intentionally withheld from production. There is no apparent reason that these documents would be privileged, and we assume the documents were not withheld intentionally. Thundermist is, of course, in the unique position of knowing what documents are (and have been) in its possession and what documents Thundermist has preserved. We would appreciate it if, as a first step, you would go back to your client and try to figure out what happened to the documents in question. In addition, we are still waiting to receive a list of the custodians whose files Thundermist searched. We have asked for this list several times over the past couple of months.

In addition, beyond emails, we believe there may be other categories of documents (for example powerpoint documents, excel spreadsheets, outlook calendars) that are responsive and have information about meetings and discussions between Thundermist and BCBSRI and Lifespan concerning Landmark and Steward, but have not been produced.

We also know that Thundermist had a substantial volume of responsive documents related to communications between Steward and Thundermist before Chuck Jones was hired that have not been produced.

We would like to schedule a meet and confer call to discuss these issues and how they are going to be addressed.

We also want to raise a few minor issues concerning your production:

1. It appears to us that your productions may contain personal health information ("PHI") of Thundermist patients. For example, pages 34 and 35 of the 1293-page "Emails" .pdf file that you sent us may identify Thundermist obstetrics patients and their doctors. We are not sure whether our reading of this document is correct. Nor are we sure whether any of the other documents you produced contain PHI. In any event, we wanted to flag the issue for you and suggest

that you review your production (and any future productions) for PHI. If you find any, we are happy to discuss returning those documents to you so you can redact the PHI and produce the redacted documents to us.

2. Along a similar line, page 804 of the "Emails" .pdf may be a privileged attorney-client communication. Please let us know if you would like to discuss our returning that document to you.

3. Two of the files sent to us appear to be defective or at least we cannot open them. We can also discuss this issue on a call.

I hope you're enjoying the warmer weather. Things are certainly much more pleasant down in Washington this weekend.

Please let us know when you want to schedule a call.

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From: Robert D. Fine [RFine@crflp.com]  
Sent: Friday, February 27, 2015 1:29 PM  
To: Levinstein, Mark  
Cc: Robert C. Corrente (rcorrente@burnslev.com)  
Subject: RE: Thundermist production

Mark - While this should not be a substitute for the firsthand account (and we will be happy to help Chuck Jones prepare an affidavit regarding his search of records and to address your questions) this is to let you know the terms used in his emails search were each of all the names listed in your request 1 on the subpoena; Landmark and Jones; Landmark and Montanaro; Landmark and bcbsri.org.; Steward and bcbsri.org.; bcbsri and Jones; Blue Cross and Jones; bcbsri and Montanaro; and also Blue Cross and Montanaro. We have also now asked him to run an additional search with LMC and will certainly produce any further email or attachment if that search results in any responsive document that might have not been previously included.

Bob

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From: Levinstein, Mark [mailto:MLevinstein@wc.com]  
Sent: Thursday, February 26, 2015 5:16 PM  
To: Robert D. Fine  
Cc: Robert C. Corrente (rcorrente@burnslev.com)  
Subject: RE: Thundermist production

Bob -

Thank you for the two letters, the additional documents, and the CD we are expecting.

We still need to know what search has been conducted - the documents that were searched, including the emails and other documents of what custodians were searched, and the search terms that were used to conduct the searches. Do you want to send us that information in writing or do you want to schedule a phone call?

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From: Robert D. Fine [mailto:RFine@crfllp.com]  
Sent: Thursday, February 26, 2015 12:04 PM  
To: Levinstein, Mark  
Cc: Robert C. Corrente (rcorrente@burnslev.com<mailto:rcorrente@burnslev.com>)  
Subject: Thundermist production

Mark - enclosed is a short cover letter and three more pages of production.

Bob

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